

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2013120357

AMENDED ORDER GRANTING IN
PART AND DENYING IN PART THE
MOTION TO DISMISS ISSUE ONE

On December 10, 2013 Student filed a Due Process Hearing Request (complaint) naming Los Angeles Unified School District (District) as Respondent.

On April 7, 2014 District filed a motion to dismiss Issue Number One of the complaint asserting the claims raised in Issue Number One are barred by the statute of limitations. Student filed opposition to the motion.

Based upon the discussion below District's motion is granted in part and denied in part.

Prior to October 9, 2006, the statute of limitations for due process complaints in California was generally three years prior to the date of filing the request for due process. The statute of limitations in California was amended, effective October 9, 2006, and is now two years, consistent with federal law. (Ed. Code, § 56505, subd. (l); see also 20 U.S.C. § 1415(f)(3)(C).) However, Title 20 United States Code section 1415(f)(3)(D) and Education Code section 56505, subdivision (l), establish exceptions to the statute of limitations in cases in which the parent was prevented from filing a request for due process due to specific misrepresentations by the local educational agency that it had resolved the problem forming the basis of the complaint, or the local educational agency's withholding of information from the parent that was required to be provided to the parent.

DISCUSSION

The complaint contains five issues. Issue Number One contains four separate FAPE allegations. The first allegation of Issue Number one alleges that District denied Student a FAPE by violating the "Child Find" requirements of the IDEA when District failed to identify Student as an individual with exceptional needs when he attended Hancock Park Elementary school some time in 2010. Student further alleges that parents removed Student from Hancock Park and enrolled him in the California Virtual Academy in January 2011. Allegation one of Issue Number One does not contain facts establishing or that can be construed as asserting any exception to the statute of limitations. The second through the

fourth allegations allege District denied Student a FAPE on various grounds in the 2013-2014 school year and are not subject to dismissal based upon the statute of limitations.

Dismissal of the “Child Find” allegations in Issue Number One is granted because of Student’s failure to allege any exception to the statute of limitations. All other allegations in Issue Number One remain for hearing.

ORDER

1. District’s Motion to Dismiss Issue Number One as to the alleged violation of its Child Find obligations is granted. All other allegations in Issue Number One remain for hearing and are not dismissed.

2. The matter will proceed as scheduled as to the remaining issues.

IT IS SO ORDERED.

DATE: April 14, 2014

/s/

STELLA OWENS-MURRELL
Administrative Law Judge
Office of Administrative Hearings